

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
1 The Circle, Suite 2
GEORGETOWN, DE 19947

September 6, 2011

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**RE: Lawrence J. Connell v. Linda L. Ammons
C.A. No. S11C-04-010-ESB
Letter Opinion**

Date Submitted: June 24, 2011

Dear Counsel:

This is my decision on Defendant Linda L. Ammons' Motion for Change of Venue from Georgetown to Wilmington in this defamation action filed against her by Plaintiff Lawrence J. Connell. Connell is a tenured faculty member at the Delaware Campus of the Widener University School of Law. Ammons is the Dean of the Law School. Connell alleges that Ammons defamed him while pursuing disciplinary proceedings against him based on complaints made against him by two of his former students. The two former students, Nadege Tandoh and Jennifer Perzez, were added as defendants by Connell after Ammons filed her motion. One lives in Wilmington and the other in southern New Jersey.

They are represented by an attorney with an office in Wilmington and support Ammons' motion.

Ammons filed her motion pursuant to Superior Court Civil Rule 12(b)(3), arguing that it would be more convenient if this action was handled in Wilmington instead of in Georgetown. Ammons points out in support of her motion that she and Connell reside in New Castle County, the Delaware Campus is in New Castle County, the alleged incidents of defamation occurred in New Castle County, the witnesses reside in or close to New Castle County, and the attorneys involved in this case have offices that are located in or close to New Castle County. Given that, as a practical matter, the discovery will be done in New Castle County, Ammons is seeking not a change of venue but a change in the location of the trial from Georgetown to Wilmington. Superior Court Civil Rule 12(b)(3) addresses improper venue. Ammons does not argue that Georgetown is an improper venue for this case. Indeed, all three of the Superior Court locations would be a proper venue for this case. Nonetheless, it is well-established that an action filed in one county may be tried in another county where the consideration of the equities involved indicates that such a change is desirable.¹ Changing the location of a trial is a matter of judicial discretion.² The plaintiff's choice of forum is entitled to great weight and will not be disturbed unless there are factors that strongly militate against it.³ If the balance of inconvenience borne by the parties is equal or only slightly heavier for a defendant, the

¹*Krueger v. Cedars Academy*, 1996 WL 422334 (Del.Ch. April 26, 1996).

² *Id.* at *2.

³ *Goldberg v. Hersman et. al.*, 2000 WL 33275020 (Del. Com. Pl. Jan. 28, 2000).

plaintiff's choice of forum should prevail."⁴ When the facts of this case are measured and given the appropriate weight they do not support a conclusion that a change in the location of the trial should be granted. There is no showing by Ammons that there are a lot of witnesses that will have to come to Georgetown to attend the trial. There is no showing by Ammons that compelling the witnesses to attend a trial in Georgetown will present a problem. There is no showing by Ammons that the trial will be lengthy. There is no showing by Ammons that she or any of the other defendants would suffer severe or undue financial hardship in traveling to Georgetown to attend trial. Indeed, as a practical matter, I suspect that Ammons and her attorneys will, as many parties and attorneys do, simply stay in or near Georgetown for the trial, thus eliminating most of the inconvenience to them. Quite simply, any inconvenience is minimal as to Ammons and the other defendants, and is certainly no greater than the inconvenience that Connell faces. Given all of this, I find that Connell's choice of forum should be respected and that it would not be an undue inconvenience for Ammons, or any of the other defendants, to attend trial in Georgetown.

CONCLUSION

Defendant Linda L. Ammons' Motion for Change of Venue is DENIED.

IT IS SO ORDERED.

Very truly yours,

/S/ E. Scott Bradley

E. Scott Bradley

⁴ *Delmarva Power and Light Company v. City of Seaford*, 523 A.2d 973, 975 (Del. Super. 1987), quoting *American Tempering, Inc. v. Brady & Son*, 630 F.Supp. 30, 31 (E.D.Pa. 1985).